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| 3624 7590 01/02/2009 VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103 | | | | |
| EXAMINER | | | | |
| GORMAN, DARREN W | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,574

Applicant(s)

GRETHER, HERMANN

Examiner

Darren W. Gorman

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-33 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 and 12-33 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 17 October 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The replacement drawing sheets were received on October 17, 2008. These drawings are acceptable.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In view of the disclosure, it is unclear how the “at least one insert part is insertable into the first housing part from the flow inlet side”. Applicant’s attention is directed to any of Figures 1, 14, 15 or 16, which each show various species of the disclosed invention. In each of these species, the housing part “7” (i.e. the “first” housing part), which is located proximate the flow inlet side of the device, includes an integrally formed perforated plate “2”. How can the “at least one insert part”, which is designated with any of reference numbers 5a-5e in the drawings, be inserted into the first housing part from the flow inlet side when the integrally formed plate (2) clearly would prevent such insertion?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10, 12-18, 21, 32 and 33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Nelson, USPN 4,730,786.

Nelson shows a jet regulator device (see Figure 1) having a flow inlet side and a flow outlet side comprising: a mounting housing divided into at least first (14) and second (16) housing parts which are releasably connected to one another, the first housing part being proximate the flow inlet side and the second housing part being proximate the flow outlet side; a jet fractionating device/perforated plate (30) having through flow holes (32), the jet fractionating device being fixedly and non-detachably connected to the first housing part (see Figure 1, and see column 2, lines 33-35); a jet regulating device arranged downstream from the jet fractionating device, the jet regulating device having at least one insert part (40-48) which are insertable into the housing, wherein at least one of the at least one insert parts has webs having a grid or net pattern such that they intersect to form intersect nodes (see Figures 3 and 4), wherein the webs are oriented transverse to a flow direction, the webs defining flow openings through the insert parts. As to the "flow rectifier" recitation in claim 1, absent any structural recitations regarding said rectifier, any of the downstream arranged discs (for example the one designated with reference number "49") reasonably anticipates the recited "flow rectifier". As to the recitation in claim 1 wherein the holes of the jet fractionating device have a smaller cross-

sectional area in comparison to the open cross-sectional areas of the through flow openings of the jet regulating device, Nelson expressly discloses that the holes of the jet fractionating device have a diameter of 0.027 inches (0.69 mm) (see column 2, lines 45-48), while the flow openings of at least the insert parts designated by reference numbers "44-46" of the jet regulating device have a diameter of 0.028 inches (0.71 mm) (see column 3, lines 21-29). Nelson also shows that the at least first and second housing parts can be locked together in a locking connection via the element designated with reference number "12". Nelson also shows at least one of the at least one insert parts being located/received within the second housing part, wherein the insert parts are inserted up to an insertion stop/support (52). Nelson also shows the second housing part defining a water exit opening which is constricted radially inward (24).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19, 20 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson, in view of Grether et al., USPN 6,152,182.

Nelson shows/discloses all of the recited limitations as set forth in claim 1, however Nelson does not expressly disclose including an insert part having a set of radial webs that intersect at intersect nodes with a set of concentric annular webs or having webs that intersect in stelliform fashion. Nelson also does not expressly disclose a flow rectifier at an exit end of the

housing with through flow openings whose width is less than a length thereof in the direction of flow.

Grether shows a jet regulator device (see Figures 6 or 10) with an insert part (25) having through flow openings (26) at an exit end of a housing (2), the insert part functioning as a flow rectifier, wherein the through flow openings are defined by any of several possible web configurations including examples which reasonably anticipate the recited configurations (see column 13, lines 17-28). Grether also shows that at least some of the through flow openings have a width that is less than a length thereof in the direction of flow (see Figure 10). Grether discloses that the inclusion of this insert part aids in forming a homogenous soft unified stream (see column 12, lines 55-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a flow rectifier part, such as that taught by Grether, with the jet regulator device of Nelson, in order to improve the formation of a homogenous soft unified stream.

8. Claims 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson, in view of Flieger, USPN 6,588,682.

Nelson shows/discloses all of the recited limitations as set forth in claim 1, however Nelson is silent as to including at least one soft and/or water-repellant surface on the housing part in the area of the water exit opening, or forming the housing part in at least the area of the water exit opening from an elastic material.

Flieger shows a jet regulator and discloses that other prior art jet regulators are often subject to calcification at their respective water exit openings. Flieger teaches forming at least the outlet portion of the device from an elastic material, thus permitting a user to easily and effectively clean the outlet portion with a finger tip (see Figure 1 and column 5, lines 30-53), and Flieger also discloses applying a soft and/or water-repellant surface to the outlet portion to substantially prevent wetting of the outlet portion, thus reducing or eliminating calcification (see column 5, line 54 through column 6, line 18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form at least the housing part in the area of the water exit opening of the device of Nelson from an elastic material, and/or coat at least the housing part in the area of the water exit opening of the device of Nelson with a soft and/or water-repellant surface, as taught by Flieger, thus permitting a user to easily and effectively clean the outlet portion with a finger tip, and/or thus reducing or eliminating calcification at the water exit opening.

As to the recitation of the “longitudinal webs”, which serve to stiffen the outflow side housing part, at least the disc designated by reference number “49” of Nelson would reasonably include elements which anticipate “longitudinal webs”. Inherently, the transverse orientation of at least the disc designated by reference number “49”, with respect to the cylindrical housing wall of Nelson, would serve to stiffen the housing part, particularly the part (16) at the outflow side of the device.

Response to Arguments

9. Applicant's arguments with respect to the claims, as amended, as not being anticipated by or not being obvious over the prior art to Grether et al. (US Patent No. 6,152,182) and Grether et al., in view of Flieger (US Patent No. 6,588,682) have been considered but are moot in view of the new grounds of rejection.

Conclusion

10. Applicant's amendments, particularly those which changed the scope of the claims in order to obviate the prior art rejections and the rejections under 35 U.S.C. 112, second paragraph, as set forth in the office action mailed April 21, 2008, necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W. Gorman whose telephone number is 571-272-4901. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on 571-272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Darren W Gorman/
Primary Examiner, Art Unit 3752

/D. W. G./
Primary Examiner, Art Unit 3752